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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D-2002-63202

ELIZABETH O'BRIEN CARROLA, P.T.
525 Almer Road, #130
Burlingame, CA 94101

A C C U S A T I O N

Physical Therapist No. AT 2479

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about November 5, 1969, the Physical Therapy Board of California issued Physical Therapist Number AT 2479 to Elizabeth O'brien Carrola, P.T. (Respondent). The Physical Therapist was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2006, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states:
The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

5. Section 2660 of the Code states:
The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

- (a) Advertising in violation of Section 17500.
- (b) Fraud in the procurement of any license under this chapter.
- (c) Procuring or aiding or offering to procure or aid in criminal abortion.
- (d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant.
The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.
- (e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.
- (f) Habitual intemperance.
- (g) Addiction to the excessive use of any habit-forming drug.
- (h) Gross negligence in his or her practice as a physical therapist or physical therapy assistant.
- (i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate,

1 directly or indirectly, or assisting in or abetting the violating of, or
2 conspiring to violate any provision or term of this chapter or of the State
3 Medical Practice Act.

4 (j) The aiding or abetting of any person to violate this chapter or any
5 regulations duly adopted under this chapter.

6 (k) The aiding or abetting of any person to engage in the unlawful practice
7 of physical therapy.

8 (l) The commission of any fraudulent, dishonest, or corrupt act which is
9 substantially related to the qualifications, functions, or duties of a physical
10 therapist or physical therapy assistant.

11 (m) Except for good cause, the knowing failure to protect patients by
12 failing to follow infection control guidelines of the board, thereby risking
13 transmission of blood-borne infectious diseases from licensee to patient,
14 from patient to patient, and from patient to licensee. In administering this
15 subdivision, the board shall consider referencing the standards,
16 regulations, and guidelines of the State Department of Health Services
17 developed pursuant to Section 1250.11 of the Health and Safety Code and
18 the standards, regulations, and guidelines pursuant to the California
19 Occupational Safety and Health Act of 1973 (Part 1 (commencing with
20 Section 6300) of Division 5 of the Labor Code) for preventing the
21 transmission of HIV, Hepatitis B, and other blood-borne pathogens in
22 health care settings. As necessary, the board shall consult with the Medical
23 Board of California, the California Board of Podiatric Medicine, the Board
24 of Dental Examiners of California, the Board of Registered Nursing, and
25 the Board of Vocational Nursing and Psychiatric Technicians, to
26 encourage appropriate consistency in the implementation of this
27 subdivision.

28 The board shall seek to ensure that licensees are informed of the

responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(n) The commission of verbal abuse or sexual harassment.

6. Section 2692 of the Code provides, in relevant part, that:

“A physical therapy corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation. . .”.

7. Section 2661.5 of the Code states:

“(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of the assessed costs specified in the proposed decision.

(c) When the payment directed in an order for payment of costs is not made by the licensee, the board may enforce the order of payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license or approval of any person who has failed to pay all of the costs ordered under this section.

1 (2) Notwithstanding paragraph (1), the board may, in its discretion,
2 conditionally renew or reinstate for a maximum of one year the license or
3 approval of any person who demonstrates financial hardship and who enters into a
4 formal agreement with the board to reimburse the board within that one year
5 period for those unpaid costs.

6 (f) All costs recovered under this section shall be deposited in the
7 Physical Therapy Fund as a reimbursement in either the fiscal year in which the
8 costs are actually recovered or the previous fiscal year, as the board may direct.”

9 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
10 request the administrative law judge to direct a licentiate found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 FIRST CAUSE FOR DISCIPLINE

14 (Gross Negligence)

15 [Bus. & Prof. Code Sections 2660 (h); 2692]

16 9. Respondent is subject to disciplinary action under section 2660 (h) of the
17 Code in that she failed to ensure that required records were kept and that physical therapy
18 assistant patient records were appropriately co-signed by supervising physical therapists. The
19 circumstances are as follows:

20 10. In or about the period from December 19, 2003 through July 16, 2004,
21 respondent failed, as a manager, corporation officer and/or Chief Stockholder for Carrola
22 Physical Therapy, to ensure that respondent and supervising physical therapists Jennifer Mark,
23 Shirley Kollman, Jeff Jaramillo,, Sandhya Dharmadas, Melissa Leek and Jason Yung, in the
24 employ of Carrola Physical Therapy, co-signed patient visit notes entered in patient records by
25 Physical Therapy Assistants Mark Peckham and Shah Boroumand relative to patients #4, 6, 7, 8,
26 and 9.¹ During this same time period, respondent also failed to ensure that weekly patient case

27 1. Patient are identified here by number only to protect patient confidentiality. These
28 patients will be identified and their Carrola physical therapy records provided in Discovery.

1 conferences with these physical therapists and physical therapy assistants occurred, and were
2 appropriately recorded.

3 11. Respondent's conduct in failing to ensure records compliance as described
4 in paragraph 11, supra, constitutes gross negligence within the meaning of Code section 2660 (h)
5 and unprofessional conduct subject to discipline within the meaning of Code sections 2660 and
6 2692.

7 SECOND CAUSE FOR DISCIPLINE
8 (Aiding and Abetting the Unlicensed Practice of Physical Therapy)
[Bus. & Prof. Code Section 2660 (k)]

9 12. Respondent is subject to disciplinary action under section 2660 (k) of the
10 Code in that she aided and abetted the unlicensed practice of physical therapy by physical therapy
11 assistants employed at Corrola Physical Therapy, within the meaning of Code section 2660 (k).
12 The circumstances are as follows:

13 13. On or about June 30 and July 13, 2004, Physical Therapy Assistant Mark
14 Peckham, recorded and issued evaluation letter(s) to the referring physician, assessing patient #7
15 as to plan, progress or discharge (reassessments).

16 14. Respondent's failure to ensure that only a licensed physical therapist
17 performed patient reassessments and issued evaluation letters to the referring physician, as
18 described in paragraph 14, supra, relative to patient #7, constitutes a violation of Code section
19 2660 (k).

20 THIRD CAUSE FOR DISCIPLINE
21 (Gross Negligence; Fraudulent, Dishonest or Corrupt Act)
[Bus. & Prof. Code Sections 2660 (h) and (l)]

22 15. Respondent is subject to disciplinary action under sections 2660 (h) and (l)
23 of the Code in that she failed to provide appropriate records for services rendered and
24 fraudulently and/or dishonestly or corruptly billed for services not rendered to a patient. The
25 circumstances are as follows:

26 16. On or about February 24, 2004, respondent treated patient #2. Thereafter,
27 on or about July 28, 2004, respondent and/or Carrola Physical Therapy, Inc. recorded billing for
28 patient #2 for an undocumented "Muscle Test" on February 24, 2004 (\$48.00); "Neuromuscular

1 Reeducation” (\$45); “Manual Therapy Technique” (\$46.00); “Therapeutic Activities” (\$41.00);
2 “Therapeutic Exercise” (\$45.00) and “Electrical Stimulation” (\$29.00), while failing to provide
3 any documentation for such services in the patient record for that date prior to billing.

4 17. Respondent’s failure to provide documentation of the services for which
5 patient #2 was subsequently billed constitutes gross negligence in violation of section 2660 (h) of
6 the Code and a violation of section 2660 (l) of the Code (dishonest or corrupt act--billing for
7 services not rendered).

8
9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Physical Therapy Board of California issue a
12 decision:

13 1. Revoking or suspending Physical Therapist Number AT 2479, issued to
14 Elizabeth O'brien Carrola, P.T.;

15 2. Ordering Elizabeth O'brien Carrola, P.T. to pay the Physical Therapy
16 Board of California the reasonable costs of the investigation and enforcement of this case,
17 pursuant to Business and Professions Code section 2661.3;

18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: June 6, 2005

20
21 Original Signed By:
22 STEVEN K. HARTZELL
23 Executive Officer
24 Physical Therapy Board of California
25 Department of Consumer Affairs
26 State of California, Complainant

25 03575160-SA2005300068
26 Carrola Accusation.wpd
27 SMB:05/16/05
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